

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE**

CHRISTINE BEARDEN, et al.,

Plaintiffs,

v.

BALLAD HEALTH, et al.,

Defendants.

Case No. 2:19-CV-00055

Hon. Curtis L. Collier

**DEFENDANT BALLAD HEALTH AND THE INDIVIDUAL BALLAD HEALTH  
DIRECTORS' MOTION TO DISMISS PURSUANT TO FEDERAL RULES OF CIVIL  
PROCEDURE 12(b)(1) AND 12(b)(6)**

Defendant Ballard Health and the individual Ballard Health Directors (“Defendants”) respectfully move to dismiss the complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) because plaintiffs lack standing to bring their claims in federal court and plaintiffs fail to state claims upon which relief may be granted. The Court should grant Defendants’ motion for the reasons set forth in the accompanying memorandum of law. Plaintiffs have failed to allege a case or controversy as required by Article III of the U.S. Constitution, which requires dismissal of the complaint under Rule 12(b)(1) for lack of subject matter jurisdiction. Plaintiffs’ complaint should also be dismissed under Rule 12(b)(6) for failing to state a claim for which relief can be granted because plaintiffs have failed to allege antitrust injury and failed to plead the requisite elements of Section 8 of the Clayton Act. Further, Ballard Health has immunity under the federal antitrust laws, which is an additional ground for dismissal under Rule 12(b)(6). Because this Court does not have subject matter jurisdiction over this case, and because plaintiffs have failed to state a claim upon which relief may be granted, the court should dismiss the case

in its entirety under Rule 12(b)(1), Rule 12(b)(6), or both. In compliance with the Order Governing Motions to Dismiss (Doc. #4), defendants file herewith a Notice of Compliance.

Dated: June 10, 2019

Respectfully Submitted,

**HUNTER, SMITH & DAVIS, LLP**

/s/ Jimmie C. Miller

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*Attorneys for Defendants Ballad Health and all the individual Defendants in their capacities as members of the Board of Directors of Ballad Health*

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of June, 2019, a copy of the foregoing **Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(1) and (12)(b)(6)** was filed electronically using the Court's ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

/s/ Jimmie C. Miller  
Jimmie C. Miller